

Special Board Meeting  
September 16, 2014  
Local Laws

A Special Board Meeting of the Town of St. Armand was held on the above date at the Town Hall, Bloomingdale, NY.

BOARD MEMBERS PRESENT:

Town Supervisor Charles Whitson, Jr., Deputy Supervisor Sam Grimone,  
Councilperson Don Amell, Councilperson Jennifer Fuller, Councilperson D. Joseph Bates

TOWN EMPLOYEES PRESENT:

Town Clerk Davina Thurston

GUESTS: Ray Tempestili, Tom Burman, Alexis Gill, Diane McKeough, Jimmy Dakin

Notice was posted regarding the date of this meeting.

Town Supervisor Charles Whitson, Jr. called the meeting to order at 6:36 p.m.

Supervisor Whitson led the Pledge of Allegiance.

LOCAL LAWS

Supervisor Whitson began the Special Board Meeting by stating that tonight we are looking to move forward on passing the Local Laws, and ready to hold a Public Hearing on this issue. Supervisor Whitson asked Town Clerk Davina Thurston to read the Proposed Local Law 1 of 2014, which she did as follows:

LOCAL LAW NO. 1 OF 2014

LOCAL LAW TO ABATE PUBLIC NUISANCES

*BE IT ENACTED by the St. Armand Town Board as follows:*

ARTICLE 1. Consistent with the provisions of Section 1306 of the New York State Public Health Law, the Town Board of the Town of St. Armand hereby adopts the following Local Law entitled "Nuisance Abatement Law" as follow:

NUISANCE ABATEMENT LAW

§ 1 Short Title.

This Law shall be known as the "Nuisance Abatement Law".

§2 Health Officer.

Consistent with New York State Public Health Law Section 302, the Town Board is the Local Board of Health and may appoint, on an annual basis or otherwise, a Health Officer who shall make any lawful investigation of nuisances and report to the Town Board. The Town shall, upon such appointment, establish the appropriate compensation for the Health Officer by Resolution in a manner consistent with the provisions of the Public Health Law.

§3 Findings.

Public Nuisances, by their nature, impact the quality of life of the general public and necessarily jeopardize the health, safety and welfare of the community. The Town Board, as the Local Board of Health has the authority to abate public nuisances and to assign the costs for doing so to the individual or individuals who created the nuisance and thereby put the public at risk. It is in the public's best interest to abate public nuisances.

§4 Prohibition.

No person may create or allow a public nuisance to exist or continue in or upon lands or structures owned or under the control of such person or persons.

§5 Definition.

“Address”: In reference to notice provided to owners or agents, address means the tax billing address on record in the Office of the Town Assessor. In reference to notice to occupants, address refers to the property address.

“Person”: Person means any individual or corporate entity.

“Public Nuisance” or “Nuisance”: Any conduct or omissions which endangers or injures the property, health, safety or comfort of the community is a public nuisance.

§6 Board of Health Review.

A. The Town Board and Health Officer, consistent with his/her powers, shall, in the sole discretion of the Town Board, examine all complaints made concerning the existence of a Nuisance or any condition which may cause danger or injury to life and public health.

1. The Town Board shall have the authority to do any or all of the following to investigate complaints:

- a. Review any relevant materials concerning the complaint; and
- b. Upon reasonable notice to the owners, agents and/or occupants, if any, enter upon and inspect any place believed to be the site of a Nuisance or condition dangerous to life and health; and
- c. Hold a Public Hearing and take testimony.

2. The Health Officer may, upon the request of the Town Board, inspect the property at issue to determine whether the conditions which exist constitute a Nuisance or a danger to the health and safety of the public. The Health Officer shall consider whether the conditions are such that create noxious odors, attract vermin or pests, whether any dangerous substances are present, whether the conditions are likely to result in the contamination of surface or subsurface water and whether the conditions constitute a risk to the health, safety and welfare of the community, including to those individuals at or proximate to the property at issue. Within five business days following inspection, the Health Officer shall issue a written report of his or her findings to the Town Board with copy provided to the property

owner or owners, agents and occupants, if any, by mail to the appropriate Address.

- B. In the event of an inspection by the Town Board and/or the Health Officer, unless the circumstances constitute an emergency, the owners, agents and occupants, if any, must be provided with reasonable notice of such inspection. Notice shall be provided by regular mail to the appropriate Address not less than seven (7) days prior to inspection. The Town should use reasonable means to ascertain the identity of appropriate recipients, however, failure to provide notice to any one recipient does not invalidate or render unlawful the inspection.
- C. In the event the Town Board conducts an inspection, the Town Board shall, within five business days from its adoption of any written statement of findings (if any such statement is adopted), provide owners, agents and occupants, if any, with such written statement in the same manner notice of inspection is to be provided.
- D. Upon a finding that the condition of the property constitutes a Nuisance or may cause danger or injury to life and public health, the Town Board may order the suppression and removal of any and all such Nuisances and/or conditions. Unless conditions constitute an emergency situation, before the Town Board may order the suppression or removal of such Nuisance or condition, the Town Board must hold a public hearing and will provide notice of such public hearing to the owners, agents and occupants, if any, of the property or premises at issue. Such notice will be provided by regular mail in the same manner required for notice of inspections.
- E. Public Hearings.
  - 1. At the Public Hearing, all persons wishing to be heard shall be given the opportunity.
  - 2. Following the closing of the Public Hearing, the Town Board shall determine whether property conditions violate the provisions of this chapter and, if so, how and within what time, the conditions must be abated.
  - 3. Such method of abatement and timeframe shall take into account the egregiousness of the violation and how imminent of a risk the condition imposes upon the health, safety and welfare of the community. All costs associated with abatement are that of the property owner or owners.
  - 4. The determination reached by the Town Board will be reduced to writing and a copy of that determination will be served by regular mail upon all owners, agents and occupants, if any, of the property or premises.
  - 5. In the event an inspection reveals that the Nuisance or condition was not abated in the manner and within the timeframe prescribed, the Town Board may authorize the expenditure of funds to abate such Nuisance or condition and the costs may be assessed against the property and collected in the same manner as Town tax.

§7 Enforcement and Penalties – Non-Exclusive.

- 1. The Town Board may commence an Action in a Court of competent jurisdiction to enforce the provisions of this Law and/or restrain the violation of any such

provision. The Town is entitled to all costs related to abatement of the Nuisance or dangerous condition at issue.

2. The Town Code Enforcement Officer may enforce the provisions of this Law by commencement of a Town Court enforcement action. If found guilty, for the first violation of the Law or any provision of this Law, a civil penalty not exceeding \$100.00 shall be imposed. For the second and succeeding violations, a civil penalty not exceeding \$500.00 shall be imposed for each single violation.
3. No means of abatement or enforcement of the provisions of this Law is exclusive and the Town may abate the condition and/or enforce the provisions of this Law in any manner authorized by law.

ARTICLE 2. The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

ARTICLE 3. All Local Laws or Ordinances or parts of Local Laws or Ordinances in conflict with any part of this Local Law are hereby repealed.

ARTICLE 4. This Local Law shall take effect upon filing in the office of the New York State Secretary of State.

Discussion ensued to determine if any changes needed to be made to the proposed Law regarding word usage. No changes were made.

RESOLUTION 48 of 2014 - SETTING A PUBLIC HEARING ON  
PROPOSED LOCAL LAW NO. 1 OF 2014 - TO ABATE PUBLIC NUISANCES

Deputy Supervisor Grimone, who moved its adoption, offered the following Resolution:

WHEREAS, the Town Board wishes to consider adoption of Local Law No. 1 of 2014 to abate public nuisances, and

WHEREAS, this legislation is authorized in accordance with the Town's police powers and by New York State Public Health Law Sections 1305 and 1306;

NOW, THEREFORE, BE IT RESOLVED, that the St. Armand Town Board shall meet and hold a public hearing at 1702 NYS Route 3, Bloomingdale Town Hall, in the Town of St. Armand at 6:30 p.m. on Tuesday, October 21, 2014 to consider adopting Local Law 1 of 2014 which would authorize the Town Board to abate public nuisances. At that time, the Town Board will hear all interested persons and may take any other actions authorized by law concerning proposed Local Law No. 1 of 2014, and

BE IT FURTHER, RESOLVED, that the Town Board authorizes and directs the St. Armand Town Clerk to publish, post and otherwise provide Notice of Public Hearing concerning proposed Local Law No. 1 of 2014 in the manner provided for by law.

This resolution was duly seconded by Councilperson Fuller, and was adopted by roll call vote as follows:

Supervisor Charles Whitson, Jr.	AYE
Deputy Supervisor Samuel A. Grimone	AYE
Councilperson Donald Amell	AYE
Councilperson Jennifer Fuller	AYE
Councilperson D. Joseph Bates	AYE

Dated September 16, 2014

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Davina M. Thurston  
St. Armand Town Clerk

Supervisor Whitson asked Town Clerk Davina Thurston to read the Proposed Local Law 2 of 2014, which she did as follows:

**LOCAL LAW NO. 2 OF 2014**  
**LOCAL LAW TO ABATE THE BURNING OF REFUSE**  
***BE IT ENACTED by the St. Armand Town Board as follows:***

**ARTICLE 1.** The Town Board of the Town of St. Armand hereby adopts the following Local Law entitled “Burning Refuse Law” as follow:

**BURNING REFUSE LAW**

Section 1. Title

1. The rules and regulations herein contained shall constitute, comprise and be known as “Burning Refuse Law in the Town of St. Armand, Essex County, New York.”

Section 2. Validity

If any section, paragraph, subdivision or provision of this local law shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this local law as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

Section 3. Purpose

The purpose of this Law is to prevent the illicit burning of garbage and refuse in the Town of St. Armand as such burning endangers the health, safety and welfare of the public. It is in the public interest to dispose of Garbage or Refuse, as these terms are defined, in an appropriate manner without releasing potentially hazardous, dangerous or damaging emissions or creating dangerous conditions.

Section 4. Definitions

The words used in this local law shall be defined as follows:

“Garbage” or “Refuse”: Ordinary household or store trash such as paper, food scraps, plastic bags, barrels, cartons, boxes, crates, furniture, rugs, clothing, rags, mattresses, blankets, tires, painted or treated lumber, and any and all personal property no longer intended or in condition for ordinary and customary use, including junk vehicles, boats, appliances, and mobile homes.

“Person”: Any individual or entity.

Section 5. Provisions

It shall be unlawful for any Person to burn Garbage or Refuse, whether in a wood stoves, fireplaces, outdoor wood boilers, barrels, fire pits, or by any other method. It shall be unlawful for any landowner or tenant to allow any Person to undertake such activities on land under such Person’s ownership or control. Nothing contained in this Law prevents the burning of fire wood whether indoors or outdoors and nothing contained herein prevents any fire company from undertaking practice fire drills.

Section 6. Enforcement of Violations

- A. The Code Enforcement Officer of the Town of St. Armand is authorized to enforce the provisions of this Law.
- B. The Code Enforcement Officer may investigate complaints pertaining to violations of this Law and, upon such investigations, make written reports of his or her findings.
- C. The Code Enforcement Officer is authorized to commence enforcement actions in Town Court and to appear on the Town's behalf for the purpose of enforcing any and all provisions of this law. The Code Enforcement Officer shall commence such action in the ordinary manner and to provide the required notice to the Person or Persons believed to be in violation of this Law in the manner prescribed by law.

Section 7. Penalties

- A. Any Person who violates any of the provisions of this Law or fails to comply with such provisions, or any landowner who allows such violation, shall be guilty of a violation punishable by a fine of not more than one hundred dollars (\$100.00) for conviction of a first offense. For conviction of a second offense, this may be punishable by a fine not exceeding two hundred dollars (\$200.00). Conviction of a third offense, is punishable by a fine not exceeding three hundred and fifty dollars, (\$350.00) and, upon conviction for a fourth or subsequent offense, a fine not less than five hundred dollars (\$500.00) nor more than seven hundred and fifty dollars (\$750.00). These amounts do not include the Justice Surcharge amount, if applicable. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. This Law does not authorize the imposition of imprisonment. Any unpaid fine amount may be included in the next annual tax levy against the property on which the violation occurred.
- B. The imposition of such penalty shall not be held to prohibit the enforced removal of prohibited conditions by any appropriate remedy, including immediate application for an injunction. Each day that the violation is carried on or continues shall constitute a separate violation.
- C. A civil action or proceeding in the name of the Town of St. Armand, New York, may be commenced in any court of competent jurisdiction to restrain by injunction the violation of this Law or any provision of this Law. Such remedy shall be in addition to penalties otherwise prescribed by law

**ARTICLE 2.** The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

**ARTICLE 3.** All Local Laws or Ordinances or parts of Local Laws or Ordinances in conflict with any part of this Local Law are hereby repealed.

**ARTICLE 4.** This Local Law shall take effect upon filing in the office of the New York State Secretary of State.

Discussion ensued to determine if any changes needed to be made to the proposed Law regarding word usage. No changes were made. Discussion ensued as to the way the citizens would be given notice of the new Proposed Laws. Town Clerk Davina Thurston stated that postcards would be mailed out to all homeowners and landlords, a Public Notice would be issued in the Adirondack Daily Enterprise and posted on the Town Bulletin Board, and the sign at the Fire Hall would also be utilized. After discussion it was agreed that Town Clerk Davina Thurston would also contact the Adirondack Daily Enterprise and the local radio stations and ask them to run articles regarding the new Proposed Laws.

RESOLUTION 49 of 2014 - SETTING A PUBLIC HEARING ON  
PROPOSED LOCAL LAW NO. 2 OF 2014 - TO PREVENT THE BURNING OF GARBAGE AND  
REFUSE

Councilperson Amell, who moved its adoption, offered the following resolution:

WHEREAS, the Town Board wishes to consider adoption of Local Law No. 2 of 2014 to prevent the illicit burning of garbage and refuse, and

WHEREAS, this legislation is authorized in accordance with the Town's police powers and by New York State Town Law Section 130;

NOW, THEREFORE, BE IT RESOLVED, that the St. Armand Town Board shall meet and hold a public hearing at 1702 NYS Route 3, Bloomingdale Town Hall, in the Town of St. Armand at 6:30 p.m. on Tuesday, October 21, 2014 to consider adopting Local Law 2 of 2014 which would prevent the burning of garbage and refuse within the Town. At that time, the Board will hear all interested persons and may take any other actions authorized by law concerning proposed Local Law No. 2 of 2014, and

BE IT FURTHER, RESOLVED, that the Town Board authorizes and directs the St. Armand Town Clerk to publish, post and otherwise provide Notice of Public Hearing concerning proposed Local Law No. 2 of 2014 in the manner provided for by law.

This resolution was duly seconded by Councilperson Bates, and was adopted by roll call vote as follows:

Supervisor Charles Whitson, Jr.	AYE
Deputy Supervisor Samuel A. Grimone	AYE
Councilperson Donald Amell	AYE
Councilperson Jennifer Fuller	AYE
Councilperson D. Joseph Bates	AYE

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Davina M. Thurston  
St. Armand Town Clerk

Dated September 16, 2014

MOTION TO ADJOURN

Deputy Supervisor Grimone made a motion to adjourn, seconded by Councilperson Bates. Supervisor Whitson adjourned the meeting at 7:24 pm.

I, Davina M. Thurston, Town Clerk for the Town of St. Armand, do hereby certify that the above is a true and correct transcript of the Special Board meeting minutes held on the above-referenced date.

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Davina M. Thurston  
St. Armand Town Clerk

September 16, 2014